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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/765,207  | 01/17/2001  | Ansgar Brock         | P0021US00           | 5731             |
| 29490   | 7590        | 03/26/2004           | EXAMINER            |                  |
| TIMOTHY L. SMITH<br>GENOMICS INSTITUTE OF THE<br>NOVARTIS RESEARCH FOUNDATION<br>10675 JOHN JAY HOPKINS DRIVE, SUITE E225<br>SAN DIEGO, CA 92121-1127 |             |                      | NOLAND, THOMAS      |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2856                |                  |

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/765,207

Applicant(s)

BROCK ET AL.

Examiner

Thomas P. Noland

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 68-81 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 68-72, 76, 77 and 79-81 is/are rejected.
- 7) ☒ Claim(s) 73-75 and 78 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Nov. 21, 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

1. The amendment filed Nov. 21, 2003 has been entered.
2. Claims 68-72, 76-77 and 79-81 rejected under 35 U.S.C. 103(a) as being unpatentable over Sauter US 6,149,815 in view of King et al US 6,132,582.

Sauter especially in its abstract, Figs. 1-2, col. 7, line 24 - col. 9, line 61 and col. 14, lines 28-50 shows a sample deposition system substantially as claimed which inherently has a sample plate that could be movable but does not disclose specific means for moving it. It also apparently does not apply the charge or ground the liquid being charged directly. However since King et al especially in its abstract, Fig. 1 and col. 13, lines 35-55 shows the use of such in a similar such sample handling system it would have been obvious to have incorporated such moving means in a system similar to that of Sauter for greater control. King et al also shows that similarly electrically controlled liquid could be charged if desired since it teaches that the fluid in the loading wells is ionic in col. 10, lines 45-48 and that electrokinetic injection can be used in col. 12, lines 48-63. The exact voltage and charge application locations would have been obvious expedients suggested for selection by construction convenience and to help better control drop application.

3. Park US 6,657,191 not prior art, shows a multi-drop discharge system but does not claim a sample deposition system structured as claimed.
4. Claims 73-75 and 78 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Applicant's arguments filed Nov. 21, 2003 have been fully considered but they are not persuasive. Applicant's arguments were however persuasive with respect to the limitations of claims 73-75 and 78 and their rejections have been withdrawn.
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

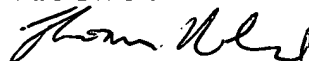
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Noland whose telephone number is (571) 272-2202. The examiner can normally be reached on weekdays from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Hezron E. Williams, can be reached on (571) 272-2208.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

**Thomas P. Noland**  
**Primary Examiner**  
**Art Unit 2856**



tpn  
March 16, 2004